

CITY OF HUNTSVILLE, TEXAS

J. Turner, Mayor



Dalene Zender, Position 1
Melissa Templeton, Position 2
Charles Forbus, Position 3
Lanny D. Ray, Mayor Pro Tem

Tom Cole, Ward 1
Mac Woodward, Ward 2
Jack Wagamon, Ward 3
Wayne Barrett, Ward 4

HUNTSVILLE CITY COUNCIL AGENDA WORK SESSION (5:30PM) REGULAR SESSION (6:00PM) TUESDAY, APRIL 20, 2010

COUNCIL CHAMBERS HUNTSVILLE CITY HALL, 1212 AVENUE M

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact the City Secretary's office (936/291-5403), two working days prior to the meeting for appropriate arrangements.

WORK SESSION [5:30]

The Council will discuss water policy priorities.

REGULAR SESSION [6:00PM]

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

U.S. Flag

Texas Flag: Honor the Texas Flag. I pledge allegiance to thee, Texas, one state under God, one and indivisible.

3. INVOCATION

4. PUBLIC COMMENT

5. PRESENTATION OF 2010 SURVEY RESULTS

Ray Turco of Turco and Associates

6. CONSENT AGENDA

(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)

- a. Approve the minutes of the City Council meeting held on the 12th of April 2010. [Lee Woodward, City Secretary] p. 1-5
- b. Approve Ordinance 2010-29 to deny the Entergy rate increase, 2nd reading. [Leonard Schneider, City Attorney] p. 6-7
- c. Approve Ordinance 2010-30 for the Entergy rate refund, 2nd reading. [Leonard Schneider, City Attorney] p. 8-9
- d. Parks and Recreation Advisory Board recommends the City Council establish a Park Rental Policy and Fee similar to the one already established for the rental of the Martin Luther King Neighborhood Center. [Matt Lumpkins, Director of Community Services] p. 10-16
- e. Authorize the City Manager to apply for, accept, if awarded, and implement the Department of Homeland Security U.S. Citizenship and Immigration Services Citizenship and Integration Grant. [Dr. Sherry McKibben, Community Development Specialist] p. 17-18
- f. Authorize the City Manager to apply for, accept, if awarded, and implement the Texas Parks and Wildlife Recreation Trails Grant. [Dr. Sherry McKibben, Community Development Specialist] p. 19-20
- g. Authorize the City Manager to execute the Interlocal Purchasing Agreement with Purchasing Solutions Alliance. [Winston Duke] p. 21-26

7. STATUTORY AGENDA

- a. *Presentation, discussion and possible action* on the annual report for the fiscal year ending September 30, 2009, presented by Ken Davis. [Winston Duke, Finance Director]
- b. *Presentation, discussion and possible action* on the Office of Attorney General's Motion to Intervene in the Entergy Rate Increase request. [Leonard Schneider, City Attorney]

8. MAYOR/CITY COUNCIL AND CITY MANAGER REPORT

- a. *Presentation, discussion and possible action* on Charter Provision Section 14.10 "Nepotism." [Councilmember Forbus]
- b. *Presentation, discussion, and possible action* on HOT Board recommendation for Expo Center/Indoor Arena Feasibility Committee. (Councilmember Forbus, HOT Board Chairman, Councilmember Ray)
- c. *Presentation, discussion and possible action* to approve recommendations of the Tax Increment Reinvestment Zone Board, including approval of the Annual Report, Project Plan, and Finance Plan, which includes the

- Feasibility Analysis. Presented by Larry Cline. [Councilmember Barrett]
- d. *Presentation, discussion and possible action* on exploring possibilities concerning the extension of Interlocal Agreement (with Addendum) for Public Safety Services between the City and Walker County. [Mayor Turner]
 - e. *Discussion* of signage on I-45. [Councilmember Forbus]
 - f. *Presentation, discussion and possible action* to discuss the employment contract of Theresa O'Brien, Municipal Court Prosecutor. [Mayor Turner]
 - g. City Manager's Report
 1. Presentation concerning Brazos Valley Community Action Agency's Weatherization Program, given by Bryan Jones, Administrator of Housing & Weatherization.

9. PUBLIC COMMENT

10. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA

11. ITEMS OF COMMUNITY INTEREST

(Hear announcements concerning items of community interest from the Mayor, Councilmembers, and City staff for which no action will be discussed or taken.)

12. EXECUTIVE SESSION

- a. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071 – pursuant to section 551.071 of the Local Government Code to receive legal advice on the current litigation against the Chamber of Commerce and to receive legal advice on claim and demand letter by Wes Altom, including, but not limited to, Wes Altom's request for a public hearing. [Leonard Schneider, City Attorney]

13. RECONVENE

- a. *Discussion and possible action* on items discussed in Executive Session. [Mayor Turner]

14. CHARTER OFFICER - CITY ATTORNEY

- a. *Discussion and possible action* on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Attorney. [Mayor Turner]
- b. *Discussion and possible action* to appoint Leonard Schneider, of Liles Parker PLLC as City Attorney. [Mayor Turner]

15. ADJOURNMENT

*If, during the course of the meeting and discussion of any items covered by this notice, City Council determines that a Closed or Executive session of the Council is required, then such closed meeting will be held as authorized by Texas Government Code, Chapter 551, Sections: 551.071 – consultation with counsel on legal matters; 551.072 – deliberation regarding purchase, exchange, lease or value of real property; 551.073 – deliberation regarding a prospective gift; 551.074 – personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; 551.076 – implementation of security personnel or devices; 551.087 – deliberation regarding economic development negotiation; and/or other matters as authorized under the Texas Government Code.

If a Closed or Executive session is held in accordance with the Texas Government Code as set out above, the City Council will reconvene in Open Session in order to take action, if necessary, on the items addressed during Executive Session.

CERTIFICATE

I, Lee Woodward, City Secretary, do hereby certify that a copy of the April 20, 2010, City Council Agenda was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.huntsvilletx.gov, in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: _____

TIME OF POSTING: _____ am/pm

TAKEN DOWN: _____ am/pm

Lee Woodward, City Secretary

MINUTES FROM THE HUNTSVILLE CITY COUNCIL MEETING HELD ON THE 6th DAY OF APRIL 2010, IN THE CITY HALL, LOCATED AT 1212 AVENUE M IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS AT 6PM.

The Council met in a regular session with the following:

COUNCILMEMBERS PRESENT: J. Turner, Tom Cole, Mac Woodward, Jack Wagamon, Dalene Zender, Melissa Templeton, Charles Forbus, Lanny Ray, Wayne Barrett

COUNCILMEMBERS ABSENT: none

OFFICERS PRESENT: Bill Baine, City Manager; Leonard Schneider, City Attorney, Lee Woodward, City Secretary

WORKSHOP SESSION [5:30PM]

Council will discuss the Geographic Information System, presented by Eric Pena.

The Mayor called the workshop to order at 5:45pm. Councilmember Templeton was absent for the workshop.

City Manager Bill Baine introduced Eric Pena, GIS Manager, who gave a brief overview of the Geographic Information System. Mr. Pena explained the services provided, and demonstrated the features of the GIS system.

The workshop adjourned at 6:00pm.

REGULAR SESSION* [6:00PM]

1. CALL TO ORDER

Mayor Turner called the meeting to order at 6:02pm.

2. PLEDGES OF ALLEGIANCE

3. INVOCATION

Councilmember Barrett gave the invocation.

4. PROCLAMATION

- a. Child Abuse Prevention Month, April 2010.
- b. Public Safety Telecommunications Week, April 11-17, 2010.
- c. Sexual Assault & Prevention Awareness Month, April 2010.
- d. National Public Library Week, April 11-17, 2010.

5. PUBLIC COMMENT

City Council member Jack Wagamon addressed the Council concerning pledges and the invocation. Wagamon said his goal was not to take action to stop anyone from saying the pledges of allegiance or giving a prayer, but an explanation on his part as to why he had not been participating in the pledge. He said he had received both direct and indirect comments regarding his non-participation in the pledge, and upon realizing a comment was made about the issue on Facebook, discussed the issue with a local business owner.

Following the conversation, Wagamon said, he understood that standing with his head down and his hands behind his back during the recitation of the pledge could be considered unpatriotic or as a protest against the flag, but that his actions certainly were not protest.

Wagamon said the reason he did not participate in the pledge was that the words "Under God" were added during the Eisenhower administration, and he considered himself more of a separatist of church and state than others in the community might be. He said he did not mean to debate the separation of church and state, but only to offer an explanation of why he did not participate in the pledge.

Wagamon said, again, that he could understand the perspective of his friend, and called attention to the fact that he had placed his hand over his heart during the pledge's recitation that night.

Wagamon also paraphrased Eisenhower's comments when the change to the pledge was made, saying his decision for all who would recite the pledge to verbally pledge themselves to the Almighty was an intrusion.

Due to those points, Wagamon concluded saying he would not be reciting the pledge, but he respected the opinions of those who may disagree with him.

Regarding the invocation, Wagamon said he also maintained the practice of bowing his head to show respect, but would not participate in the invocation due to his religious beliefs being a private matter. He also said that if a citizen asked that a prayer of another faith, such as a Muslim or Jewish invocation, be included, that he would support the request.

Joseph Milam addressed the Council regarding a court case and its application in the City of Huntsville, as well as information on EMF.

John Cromer addressed the Council to support Jack Wagamon, specifically mentioning his assistance in arranging water service for his neighborhood.

Tarek Maalouf of Huntsville addressed the Council regarding Wagamon's statements about pledge participation. He said he and Wagamon began to discuss the issue two months prior to the meeting when he observed Wagamon standing during the pledge with his hands behind his back. He said that his patriotism and pride in America was very important to him, and that was why he considered the action something to be discussed. Maalouf continued to say that he and Wagamon had discussed the issue, they were not fighting, and anyone with any questions for him should approach him personally.

6. PUBLIC HEARING

- a. **The City will hold a public hearing on the Entergy request for rate increase filed with the City of Huntsville to increase electric rate in the Entergy Service Area by \$210.5 million per year. [Leonard Schneider, City Attorney]**

Mayor Turner began the public hearing at 6:32 p.m.

Stephen Mack, Attorney with the Lawton Law Firm, P.C., provided background on the case, stating that the \$210.5 million rate increase would translate to a three-percent increase for all residential customers and a \$26 monthly increase to customers taking 1,000 kilowatt/hours per month. He said Entergy requested the change go into effect in February, but the Council had decided to take the issue up in January to postpone the effective date of that rate increase. The purpose was to hire witnesses to look at that issue and determine whether that rate increase was justified, as well as to consider whether the proposed profit margins for Entergy were acceptable based on the market. Based on the reports filed by the six witnesses, Mack said his firm was recommended denying the rate increase. Mack stated, if the City were to deny the rate increase, that Entergy would likely appeal the decision to the Public Utility Commission of Texas.

Susan Kelley, Assistant Attorney General speaking on behalf of Texas State University and the Texas Department of Criminal Justice, stated that both organizations felt the rate increase should be denied based on unreasonable costs and unprecedented direct cost recovery mechanisms as a shortcut to the traditional rate making process. Kelley also stated that the rate increase would place a heavier monetary burden on the State organizations at a time when they were already cutting their budgets by five percent. She asked that TDCJ and Sam Houston State University be given party status with respect to the Entergy suit.

The public hearing was closed at 6:40 p.m.

7. CONSENT AGENDA

(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)

- a. **Approve the minutes of the City Council meeting held on the 23rd of March 2010. [Lee Woodward, City Secretary]**
- b. **Approve Ordinance 2010-28 to approve stop signs on Molly Drive at Vicki Street, 2nd reading. [Aron Kulhavy, Director of Public Works]**
- c. **Authorize the City manager to extend the current contract for depository banking services with First National Bank of Huntsville for one year. [Winston Duke, Finance Director]**
- d. **Authorize City Manager to approve the Badger Lane Sewer Project #08-10-30 construction contract and award contract to 5-T Utilities in the amount of \$174,926.07. [Aron Kulhavy, Director of Public Works]**

Councilmember Forbus made a motion to accept the consent agenda, and Councilmember Templeton seconded the motion.

Mayor Turner opened the discussion, and Councilmember Forbus asked if the funding for the Badger Lane improvements were already in the budget. Mayor Turner answered that they were.

Councilmember Cole asked, regarding Item C, if any other bank aside from First National Bank had submitted bids for the contract.

Laurie O'Brien, Finance Administrator, said three other banks submitted bids in 2008, but First National Bank received the bid based on low service charges and other bid details.

Cole asked about other banks that had served as the City's depository over the last 10 years, and Mayor Turner said the information would be provided. Cole also said, considering the City's relationship with First National Bank, that other banks should be given the opportunity to serve as depository.

Councilmember Wagamon said the City appeared to have deposits in many banks, and City Manager Baine agreed.

Councilmember Templeton said the bid from First National Bank was discussed in a recent Finance Committee meeting, and that the committee did find that it was the best deal of the bids presented.

The consent agenda was passed unanimously, with a vote of 8-0 on item 7c, as Councilmember Woodward signed a Conflict of Interest statement and did not vote on that item.

8. STATUTORY AGENDA

- a. **Presentation, discussion and possible action to approve Ordinance 2010-29 to deny the Entergy rate increase, 1st reading. [Leonard Schneider, City Attorney]**

Mayor Turner stated - as the item was being presented for the first time - that no action would be taken. Councilmember Templeton asked that Stephen Mack come forward to address the issue of TDCJ and Sam Houston State University wanting to be included in the motion to intervene. City Attorney Leonard Schneider said that pertained to Item 8C, but it would be acceptable for him to combine the issues addressed in items A and C and speak under Item 8A.

Schneider asked Mack if the ordinance covered all applications for rate increase by Entergy, as was suggested by the Assistant Attorney General. Mack answered that it was the base rate application Kelley referred to that was mentioned in the ordinance.

Mayor Turner asked for any additional questions or comments, and none were presented.

- b. **Presentation, discussion and possible action to approve Ordinance 2010-30 for the Entergy rate refund, 1st reading. [Leonard Schneider]**

Mayor Turner stated - as the item was being presented for the first time - that no action would be taken.

Schneider asked Mack to explain the Ordinance, and Mack stated that the Item referred to a rate refund which has been implemented annually for the last three years to even out operation costs among Entergy entities. The funding, Mack said, would be given from other Entergy entities to Entergy Texas, who would then disperse the funds to customers. Mayor Turner clarified that the action would entail a positive number, or refunds, going to customers instead of additional costs.

Mayor Turner asked for any additional questions or comments, and none were presented.

- c. **Presentation, discussion and possible action on the Office of Attorney General's Motion to Intervene in the Entergy Rate Increase request. [Leonard Schneider, City Attorney]**

Mayor Pro Tem Ray made a motion to approve the request, and Councilmember Woodward seconded the motion.

Ray addressed Kelley, clarifying that the request was for Sam Houston State University and TDCJ to be included in the motion to intervene, and Kelley said it was for the two entities to be given party status in any further legislative action. Ray said he would like to briefly advocate for the action, especially considering the percentage of the population represented in the two entities.

Schneider said he had spoken with Mack and the Assistant Attorney General regarding the item, and he believed there were a couple of things the Council should hear in executive session. He asked that the Mayor convene a closed session as authorized by Texas Government Code, Chapter 551; Section 551.071 to receive legal advice on issues.

Council entered into Executive Session at 6:51 p.m. and returned to Open Session at 7:12 p.m.

Mayor Turner made a motion to table Item 8C, and Councilmember Zender seconded the motion.

Mayor Turner stated that no discussion would take place and the motion to table would go straight to a vote.

The motion passed 7-2 with Mayor Pro Tem Ray and Councilmember Forbus voting against the motion.

9. MAYOR/CITY COUNCIL AND CITY MANAGER REPORT

- a. **Presentation, discussion and possible action to approve nominees for Expo Center/Indoor Arena Study Committee. [Mayor Turner]**

Item was pulled.

- b. **Presentation, discussion and possible action to approve nomination of Bill Baine to Walker County Public Safety Communications Executive Board, to replace Councilmember Barrett. [Mayor Turner]**

Mayor Turner said Councilmember Barrett had taken on additional duties and requested to be relieved of his position, while City Manager Baine expressed a very strong desire to be appointed to the position to increase the City voice on the board.

Mayor Turner's motion was seconded by Councilmember Cole and Councilmember Forbus. The motion passed unanimously.

- c. **Discussion of supporting fundraising for new counseling building for the Good Shepherd Mission. [Councilmember Wagamon]**

Wagamon said he was a big supporter of the Good Shepherd Mission, as he felt many others were. He asked City Manager Baine to speak regarding fundraising opportunities.

~~Baine reminded the Council that he had mentioned donating the old Huntsville's Promise building to the Good~~

Shepherd Mission, but high costs made the action unfeasible. He said a local business person had committed to matching up to \$50,000 in funds raised by the public to build an entirely new building in the vicinity of the current Good Shepherd Mission building to be used as a counseling building.

Mayor Turner asked for a timeline, and Baine said he believed fundraising would start immediately at First State Bank.

d. Discussion of citizen petition traffic issues at Highway 19 and I-45 interchange. [Councilmember Wagamon]

Councilmember Wagamon announced plans of a luncheon with Texas Department of Transportation representatives on Thursday, April 15 to address traffic issues. He stated that, near the intersection of Highway 19 and Interstate 45, there were serious concerns with one-way feeder roads among area business owners and residents. Wagamon said he had worked with TxDOT's Katherine Heijl to find a solution, which could entail adding pavement or other changes.

e. Discussion of pledges to flags and invocation with respect to the First Amendment, U.S. Const. [Councilmember Wagamon]

Councilmember Wagamon said he had addressed the issue to his satisfaction in the public comments section, but placed the item in City Council discussion to allow other Council members to contribute thoughts.

Councilmember Forbus addressed the merits of free speech, and Councilmember Barrett said he always felt honored to lead the invocation but felt no ownership to the action. He said he would join Councilmember Wagamon in welcoming anyone else who would lead the Council meetings in prayer. He also addressed the merits of freedom of expression, of conscience and of tolerance. Councilmember Templeton agreed with Barrett, saying she was proud of everyone for displaying constitutional rights.

f. City Manager's Report

1. Discussion of limits to City clearing on private lots in high crime or dangerous areas.

City Manager Baine addressed clearing on private lots and the limitations on those actions. He said he wanted to get the sense of Council as far as their opinions on the issue.

Schneider said a City cannot provide free services to anyone, that there must be some type of charge. He also said the City had a nuisance ordinance which could be put into effect should weeds or other growth become too extreme.

Wagamon said he did not know when a lot would become a wooded lot or just be considered overgrown. Schneider said, generally, a City can determine whether a lot is a nuisance and threatens public safety. Wagamon asked, when discussing a specific lot that could fall into the nuisance category, how the determination would be made. Schneider said reference should be made to the Code of Ordinances and work to notify the owner before action should be taken.

Baine also discussed an outage at a local sewer plant, as well as the Elkins Lake Recycling Pilot Program. He said he would most likely ask to continue the program.

10. PUBLIC COMMENT

There were no additional public comments.

11. MEDIA INQUIRIES

There were no media inquiries made.

12. ITEMS OF COMMUNITY INTEREST

(Hear announcements concerning items of community interest from the Mayor, Councilmembers, and City staff for which no action will be discussed or taken.)

a. March to the Mailbox Extravaganza for Census 2010. [Mayor Turner]

Mayor Turner addressed the March to the Mailbox Extravaganza for the Census, saying it was a big event and handing out plastic fire-hats for children was a hit. He said the Census is an important issue and it was heartening to see volunteers turn out on a Saturday afternoon.

b. Census return rates. [Mayor Turner]

Regarding Census return rates, Mayor Turner said the current rates were sobering – as of Monday, April 12, the national participation rate was 62 percent, while the state rate was 61 percent, the Walker County rate was 55 percent, and the City of Huntsville participation rate was 53 percent. He said the City needed to redouble their efforts to do whatever possible to make the Census a success.

c. Congratulations to the Little Dribblers girls going to Nationals. [Mayor Turner]

On behalf of Council, Mayor Turner extended congratulations to the Little Dribblers team on which City employee Dorothy Hunter's granddaughter plays. The team is going to the Nationals for the third year in a row.

d. Demi-semi-sept-centennial. [Mayor Turner]

Mayor Turner mentioned a report compiled by the City's auditor to audit a year's worth of fire expenses, to determine how much of the costs were for the City and how much for the County. He said the report had been received, was sent to Council members and would be on the next meeting's agenda. He said he wanted to encourage County commissioners to vote to accept the audit.

Finally, Mayor Turner gave a progress report on the Demi-semi-sept-centennial celebration.

Councilmember Wagamon said the Town Hall Meeting scheduled for February had been rescheduled for April 29 at the Martin Luther King, Jr. Recreational Center.

13. EXECUTIVE SESSION

- a. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.074 - personnel matters regarding the annual evaluation of City Judge, John Gaines. [Mayor Turner]
- b. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071 - consultation with retained counsel, Provost, Umphrey law firm, on legal matters, on legal efforts to recover overcharges by Entergy on electric bill, street lights. [Leonard Schneider, City Attorney].
- c. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551; Section 551.071 to receive legal advice on issues in regards to permit renewals, Texas Alcoholic Beverage Commission regulations, and drinking establishments including but not limited to Sam's Fast Food Mart; update on AT&T litigation; update on Chamber of Commerce litigation. [Leonard Schneider, City Attorney]
- d. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.074 - personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, City Attorney. [Mayor Turner]

The Council adjourned into executive session at 7:36 p.m.

14. RECONVENE

Council reconvened at 9:15 p.m. No action was taken on the items addressed during executive session.

15. ADJOURNMENT

The meeting was adjourned at 9:15pm.

Lee Woodward, City Secretary

ORDINANCE NO. 2010-29**AN ORDINANCE BY THE CITY OF HUNTSVILLE, TEXAS
("CITY") DENYING THE RATE INCREASE REQUEST OF
ENTERGY TEXAS, INC. FILED ON DECEMBER 30, 2009;
FINDING THAT THE MEETING COMPLIES WITH THE
OPEN MEETINGS ACT; MAKING OTHER FINDINGS
AND PROVISIONS RELATED TO THE SUBJECT; AND
DECLARING AN EFFECTIVE DATE**

WHEREAS, on or about December 30, 2009 Entergy Texas, Inc. ("Entergy") filed a Statement of Intent with the City to increase electric rates in the Entergy Service Area by \$210.5 million per year; and

WHEREAS, the City of Huntsville suspended the effective date of Entergy's rates within its jurisdictional limits until at least May 4, 2010 and hired the Lawton Law Firm, P.C. to review the Company's rate change request and proposed tariffs;

WHEREAS, the expert utility rate consultants retained to review the Company's rate increase request have made a range of proposed adjustments for areas where Entergy has not justified the need for a rate increase or has failed to comply with regulatory ratemaking requirements. These adjustments on average reduce the Company's purported annual revenue increase to zero dollars, as set out in the recommendations made to the City in the Final Rate Report to Cities Steering Committee ("Report"). The average of the adjustment range, \$207.3, would essentially eliminate any increase requested by Entergy.

WHEREAS, the rate experts retained for the rate review have concluded that Entergy's rate filing request includes rate increases for Entergy's proposed cost of capital, cost of cash working capital, accumulated deferred income taxes, depreciation rates, cost of purchased power capacity, employee compensation—including bonus, stock awards and other compensation—benefits, federal income tax estimates, and storm reserve charges, which are unjustified by Entergy's filing;

WHEREAS, Entergy has failed to justify increasing the rates previously determined to be reasonable and necessary by this City and other Texas regulatory authorities;

WHEREAS, the statutory deadline to act on Entergy's rate increase request is May 4, 2010;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, THAT:

Section 1. That the statement and findings set out in the preamble to this Ordinance are hereby in all things approved and adopted.

Section 2. The City of Huntsville hereby denies the rate increase and proposed tariff revisions requested in Entergy's Statement of Intent.

Section 3. Entergy is hereby Ordered to continue operating under its existing approved rates.

Section 4. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 5. This ordinance shall become effective from and after its passage.

PASSED AND APPROVED this 20th day of Huntsville, 2010.

J. Turner, Mayor

ATTEST:

Lee Woodward, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney

ORDINANCE NO. 2010-30**ORDINANCE BY THE CITY OF HUNTSVILLE, TEXAS ("CITY") APPROVING THE RATE REFUND OF ENTERGY TEXAS INC. CONTAINED IN THE STATEMENT OF INTENT FILED ON MARCH 25, 2010; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE**

WHEREAS, on or about March 25, 2010, Entergy Texas, Inc. ("ETI") filed a Statement of Intent to Adopt New Rate to implement a new Rough Production Cost Equalization ("RPCEA") refund ("Application") with the City to refund to customers rough production equalization receipts for ETI's Texas service territory;

WHEREAS, the RPCEA rates are anticipated to refund \$28.46 in May, \$21.44 in June, \$15.56 in July, and \$16.07 in August for average residential customers using 1000 kWh per month of electricity;

WHEREAS, the rough production cost equalization receipts were received by ETI in 2009 pursuant to an order of the Federal Energy Regulatory Commission ("FERC"). The FERC determined that the Entergy System Agreement no longer operated to maintain the production costs of the various Entergy operating companies within a reasonable level of parity. As a remedy, FERC implemented a Rough Production Cost Equalization system as part of the Entergy System Agreement. The remedy requires payments among the Entergy Operating Companies whenever an operating company's production costs are greater or less than a percentage of the system average production costs. For 2008, Entergy Arkansas, Inc.'s ("EAI") production costs were substantially below system average production costs. FERC ordered EAI to make payments to the other operating companies in order to roughly equalize the production cost disparity;

WHEREAS, ETI calculates the rough production cost equalization receipts from EAI currently due to Texas retail customers to be \$117.5 million, with interest, and such amount is subject to future adjustment;

WHEREAS, the RPCEA is designed to refund the amounts calculated by ETI to be currently due in a timely manner over the summer of 2010;

WHEREAS, the law firm and consultant hired by City have reviewed the Application, find it to be sufficient, and recommend the Application's approval; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, THAT:

Section 1. That the statement and findings set out in the preamble to this Ordinance are hereby in all things approved and adopted.

Section 2. The City of Huntsville hereby approves the refund rates established in ETI's Application.

Section 3. In accordance with Section 36.103(b) of the Texas Public Utility Regulatory Act ("PURA"), the City waives the publication of notice requirement set forth in Section 36.103(a) of PURA.

Section 4. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 5. This Ordinance shall become effective from and after its passage.

PASSED AND APPROVED this 20th day of April, 2010.

J. Turner, Mayor

ATTEST:

Lee Woodward, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney

City Council Meeting Agenda Item

Item Title:

Park Rental Policy and Fee

Date:

4/20/2010

Agenda Item No.:

6d

Requested By:

Matt Lumpkins

Dept./Div:

420

Dept. Approval:

JML

Issue/Item Description:

Establish a policy and fee for park reservations

Background:

Citizens have inquired about reserving the parks for private use; some uses are for profit

Facts to Consider:

- Policy will give guidelines for citizens who rent the parks for personal use and hold them responsible for cleaning up after themselves
- Fees will compensate for special clean up time added to parks crews' schedules after events
- Surrounding cities have similar policies

Fiscal Impact/Funding Source(s):

Not applicable

Attachment(s):

- Example Policy
- Example Rental Agreement

Recommendation(s):

- Parks and Recreation Advisory Board recommends the City Council establish a Park Rental Policy and Fee similar to the one already established for the rental of the Martin Luther King Neighborhood Center.

MOTION: ☐

SECOND: ☐

VOTE:

☐ PRESENTED

☐ APPROVED

☐ DECLINED ACTION

☐ TABLED

☐ OTHER

Rental Agreement

HUNTSVILLE COMMUNITY PARKS

Lessee's Full Name (Print)

Phone Number(s)

Mailing Address

City

State

Zip Code

TX

Physical Address (or "Same")

City

State

Zip Code

TX

Date of Rental

Time In

Time Out

Description of Event

Park to be Rented

Number of People Expected

Will you be soliciting any funds or selling any goods?

☐ Yes ☐ NO

If Applicable - Type of Sound Equipment

Acceptance of Terms:

I verify that I have received a copy for my records, read, understand, and agree to the City of Huntsville Park Use Policy and Procedures. I also agree to abide by all City, State, and Federal laws, and agree to the fees. I understand that the City is not responsible for any accidents or lost/stolen items. I also understand that I will be financially responsible for any damages to the Park, property and equipment that are beyond the deposit amount.

Signature

Date

FOR STAFF USE ONLY

Building Permit

On-Call Personnel

Deposit

Driver's License

Total

Payment

Receipt Number

Staff

Full Refund:

Attach Park Rental Check List. If full refund is not given, please explain:

☐ Yes

☐ No



**Park Rental
Use Policy and Procedure**
Effective April 20, 2010

POLICY

The City of Huntsville makes available any park to the citizens of Huntsville and/or Walker County for cultural, educational, and family events suitable to a neighborhood setting.

A. Purpose

1. To ensure both availability and uniformity of use by outside parties.
2. To specify the guidelines necessary to safely utilize city parks.
3. To ensure the integrity of the city parks are not altered for continued use.

B. Definitions

1. "Park" herein pertains to the park being rented.
2. "City" herein pertains to the City of Huntsville and its employees.
3. "Lessee" herein pertains to the individual, group, or organization renting and executing the agreement for this Park.

C. Rental Days and Hours

1. Parks are available for rentals on Saturday and Sunday only, from 7:00a.m. – 10:00p.m.
2. The following days are NOT available for rental purposes:
 - a. Weekdays (Monday through Friday)
 - b. Thanksgiving Day (through the weekend)
 - c. Christmas Eve or Christmas Day (or the weekend if either day falls on it)
 - d. New Years' Eve and New Year's Day (or the weekend if either day falls on it)
 - e. Election days (Tuesday and/or Saturday)
 - f. MLK community celebration in January
 - g. Juneteenth community celebration in June
3. The City will have the final authority on whether to rent on any other day or other observed City Holidays.
4. The City schedules various activities throughout the year and will have first priority over any and all reservations.

D. Rules and/or Responsibilities of the Lessee

1. The Lessee must be a City of Huntsville or Walker County resident with a valid photo ID, and be 21 years of age or older.
2. The Lessee shall abide by these policies as well as any applicable City Ordinances, State and Federal Laws.
3. The Lessee is responsible for the safety, character, acts, and conduct of all persons admitted to the premises. The Lessee will be responsible for the Park and those in



attendance. The Lessee will be held responsible for any damages that occur to the Park by the Lessee or by a participant in attendance at the Lessee's event.

4. Where the Lessee is acting on behalf of an organization, the Lessee shall have full responsibility for communicating provisions of this policy to the organization, and the Lessee will be fully responsible for the Park and those persons admitted to the event.
5. The Lessee is NOT permitted to solicit funds or sell goods in or around the Park without written approval of the Director of Community Services.
6. The Lessee (or his/her designated representative individual who is 21 years of age or older) shall remain with the Park at ALL times.
7. It is the Lessee's responsibility to acquire the additional tables and chairs suitable to the Lessee. Such personal property shall be obtained at the Lessee's expense. The City shall NOT be in any manner responsible for such property brought in by the Lessee.
8. The Lessee shall NOT sublet the Park.
9. It is the Lessee's responsibility to inform the City of any problems with the Park immediately.

F. General Rules and/or Responsibilities

1. Possession or consumption of alcoholic beverages is NOT allowed on the premises.
2. Dispose of tobacco products properly. Cigarette butts should be disposed of safely, and not thrown on the ground. Remember, other people and children patron these parks.
3. Animals are to be on a leash at all times, unless in the designated Pooch Parks.
4. Gambling is NOT permitted in or around the Park.
5. Set up and clean up time shall be considered included in the reservation time.
6. The City has the right to enter the Park at any and all times.
7. The City has the right to immediately terminate an event.
8. The City reserves the right to refuse any individual or organization future use of the Park due to abuse of policies or other laws.
9. Loud noise is prohibited by City Ordinance. Lessee shall NOT use electronic equipment at a volume which emits sound beyond the event at the rented Park, and shall NOT create a disturbance by causing excessive noise by any means.
10. The City is NOT responsible for lost, damaged, or stolen items. Items of value, such as purses, wallets, cell phones, and cameras (except for food and beverages which will be disposed of) found at the Park will be taken to the Huntsville Police Department.
11. Furnishings, supplies, and equipment belonging to the City are NOT permitted to leave the premises for any reason.
12. Improper use of furniture, fixtures, or equipment is NOT permitted. The City will NOT be held responsible for any damages caused to the Lessee's persons or property due to such negligence and the Lessee will be held responsible for any damages done to the Park, equipment, fixtures, or furniture should such an occurrence happen.
13. All Fire Safety Codes are required to be followed at all times.

G. Reservations

1. Only an executed Rental Agreement guarantees a reservation date.
2. An unpaid reservation will be held only until another potential user challenges the date. The Lessee will be notified of the challenge and will have five (5) business days to execute the Rental Agreement or the date will be released to the challenger.



3. To execute the Rental Agreement, the Lessee must schedule an appointment with the Community Services Department (936-294-5708) and pay ALL fees at that time.
4. Reservations can be made up to six (6) months in advance.
5. Rental Agreements shall be executed a minimum of one (1) month prior to the reservation date.

H. Fees; Payments

1. The Lessee must pay ALL FEES at the time the Rental Agreement is executed in order to guarantee a reservation. Please refer the Fee Schedule.
2. Payment can be in the form of cash, personal check (non-temporary), cashiers check, credit card, or money order.
3. Payment is to be made payable to the City of Huntsville.
4. There will be a \$25.00 fee assessed on all return checks (effective 12/05).
5. Fees are set by the City's Administration, are subject to change, and apply to all users.
6. Fees paid at the time of execution of the Rental Agreement will be honored if a fee change occurs.
7. A held reservation will NOT guarantee the fee if a fee change occurs.
8. Refunds will NOT be issued for any unused portion of time.

I. Fee Schedule

Fee Description	Amount
Park Permit	\$150.00
Deposit	\$100.00
Returned Check Fee	\$25.00
Cancellation (6-15 Business Days Prior)	½ Deposit returned
Cancellation (Within 5 Business Days)	No Deposit returned

J. Deposits

1. Deposits are required for ALL reservations to assure that the Park is not jeopardized in any manner.
2. Deposits are deposited by the City the day they are received and do NOT apply towards the Park Permit Fee.
3. Deposits are refunded by City check and mailed within 30 days after the reservation date pending (1) that the Park is left in accordance to the rules and regulations laid out in this agreement, and (2) no fees have been assessed.
4. Deposit monies shall be used by the City to repair, replace, or pay for any property which has been damaged or left in an unacceptable condition by the Lessee. The deposit may be held until the full extent of the damages has been assessed and repairs have been made.
5. If damages exceed the Deposit, the Lessee will be billed for the additional charges.
6. If the Deposit is forfeited for any reason, the Lessee will be billed for any additional fees.

K. Cancellations; Rescheduling

1. All cancellations must be received *in writing* and during normal business hours.
2. Any Lessee that cancels a reservation between six (6) and 15 business days prior to the rental date shall be refunded one-half (1/2) of the deposit and the full Permit Fee, unless they have made provisions to reschedule the use of the Park.



3. Any Lessee that cancels a reservation five (5) or fewer business days before the rental date shall forfeit their entire Deposit; however, the Lessee shall be returned the Permit Fee.

L. Decorations

1. Decorations should be limited and NOT interfere with the integrity of the Park or its contents.
2. Only a mild adhesive masking tape shall be used, and on non-painted surfaces only.
3. Fastening devices (such as staples or hooks) that punctures a surface are prohibited.
4. Hanging items from the Playground modules is prohibited.
5. Special effect machines, (ie. smoke machines, bubble machine, fog machines, mirror balls, fountains, etc.), are prohibited.
6. The City will NOT be held responsible for any injuries or damages that may occur from decorating or the decorations themselves.
7. Moonwalks or other large, blown up play areas are prohibited.

M. Certified Peace Officers

1. The City reserves the right to and shall have the authority to stipulate a reasonable number of Certified Peace Officers to ensure the safety of the public and the Park at times during which the Park is used and occupied by the Lessee.
 - 50 – 100 people – one (1) Certified Peace Officer
 - 101 – 200 people – two (2) Certified Peace Officers
2. The Lessee will employ at their expense said number of Certified Peace Officers to be present 30 minutes prior to the beginning of the event, during the entire event, and up to 30 minutes after the event.
3. The Certified Peace Officer(s) must be employed with an agency within the jurisdiction of Walker County limits.
4. If applicable, the Lessee must provide proof that the Certified Peace Officer(s) were present during the time of the event to the City.

N. Liability/Waivers/Insurance

Lessee agrees to and shall indemnify and hold harmless the City from and against any and all claims, losses, damages, causes of action, suits or liability of every kind, attorney's fees, for injury to or death of any person, or for damages to any property, arising out of or in connection with the use of the Park, its agents, representatives, assigns, invitees, and participants under this agreement. Such indemnity shall apply where claims, losses, damages, cause of actions, suits or liability arise in whole or in part from the negligence of the City.

PROCEDURE

A. Purpose

Provide clear guidelines to the Lessee of the expectations and procedures involved for their rental.

B. Arrival

1. The Lessee must meet the City at the Park at the time indicated on the Rental Agreement.
2. Should the arrival time need to change (altered arrival time), it is the Lessee's responsibility to contact the City on Friday before Noon of the Lessee's weekend rental day.



- 3 The Lessee must show a valid photo ID, proof of rental by showing the copy of the executed Rental Agreement and receipt prior to being allowed into the Facility.
- 4 Remember, a key is NOT issued to the Lessee, therefore, the Lessee shall remain with the Park at all times. (See General Procedures, Section E.6.)
- 5 The City shall perform a joint inspection of the Park with the Lessee, at which time the City will explain the Park and location of important features of the Park.

C. Clean Up Required

1. The Lessee shall return the Park to the same condition as when received, if not better.
2. Tables and chairs shall be wiped clean and be free of any type of adhesive device, markings, food/beverage particles, or residue of any type. Tables and chairs then shall be placed back in the location/manner in which they were retrieved.
3. All trash and litter (including trash/litter from the bathrooms) shall be placed in the provided lined containers.
4. Any personal food items and utensils found at the Park will be disposed of.

E. Departure

1. The City will arrive at the departure time indicated on the Rental Agreement at which time the Lessee needs to have completed cleaning the Park.
2. Should the Lessee finish early and need to alter the departure time (altered departure time), it is the Lessee's responsibility to call the City one (1) hour prior to having the Park cleaned.
3. The City and Lessee shall perform a joint inspection of the Park prior to departure.

City Council Meeting Agenda Item

Item Title:

Educational Literacy

Date:

4/20/2010

Agenda Item No.:

60

Requested By:

Sherry McKibben

Dept./Div:

647

Dept. Approval:

LD

Issue/Item Description:

This grant through the Department of Homeland Security U.S. Citizenship and Immigration Services is to focus on Citizenship and English as a Second Language (ESL) classes. The Citizenship and Integration program is designed to assist local entities in providing classes to

Background:

The Library currently offers citizenship and English as a Second Language (ESL) classes. We have volunteers from the Junior Fellows at Sam Houston State University who have assisted with the classes in the past. This grant will allow additional funding for the program and expand the services we offer.

Facts to Consider:

- Classes are limited
- No matching requirement
- Grant amount up to \$100,000

Fiscal Impact/Funding Source(s):

\$200 was budgeted in 2010 for this program.

Attachment(s):

- Resolution

Recommendation(s):

- Authorize the City Manager to apply for, accept, if awarded, and implement the Department of Homeland Security U.S. Citizenship and Immigration Services Citizenship and Integration Grant.

MOTION: ☐

SECOND: ☐

VOTE:

☐ PRESENTED

☐ APPROVED

☐ DECLINED ACTION

☐ TABLED

RESOLUTION NO. 2010-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, AUTHORIZING THE SUBMISSION OF A DEPARTMENT OF HOMELAND SECURITY'S U.S. CITIZENSHIP AND IMMIGRATION SERVICES CITIZENSHIP AND INTEGRATION GRANT; AND AUTHORIZING THE CITY MANAGER TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE CITIZENSHIP AND INTEGRATION GRANT PROGRAM.

WHEREAS The City desires to provide educational resources for all its residents and; The City of Huntsville has empowered the Huntsville Public Library with this task; and

WHEREAS It is necessary and in the best interest of the City to apply for funding under the Department of Homeland Security's U.S. Citizenship and Immigration Services Citizenship and Integration Grant Program .

NOW, THEREFORE, be it resolved by the City Council of the City of Huntsville, Texas, that:

SECTION 1: A Citizenship and Integration Grant Program application is hereby authorized to be filed on behalf of the City and be placed in competition for funding.

SECTION 2: The application will be for no more than \$100,000 of grant funds to furnish materials and collaboration with Sam Houston State University.

SECTION 3: The Mayor and City Council strongly support this application to address the educational needs of the Community.

SECTION 4: The City Council directs and designates the City Manager, Bill Baine, as the City's Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and the City's participation in the Citizenship and Integration Grant Program.

PASSED AND APPROVED this 20th day of April, 2010.

THE CITY OF HUNTSVILLE

J. Turner, Mayor

ATTEST:

Lee Woodward, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney

City Council Meeting Agenda Item

Item Title:

Eastham-Thomas Park Trailhead Improve...

Date:

4/20/2010

Agenda Item No.:

6F

Requested By:

Sherry McKibben

Dept./Div:

420

Dept. Approval:

ML

Issue/Item Description:

The Texas Parks and Wildlife Recreation Trails Grant will fund trail head improvements at several of the trails in Eastham-Thomas Park.

Background:

The trailheads at the park are in need of repair. Also, some improvements will be incorporated with the grant funding to include better signage, drainage, and fencing.

Facts to Consider:

- Request up to \$250,000 in funding
- 20% Match Requirement

Fiscal Impact/Funding Source(s):

The match requirement will be in the form of in-kind labor.

Attachment(s):

- Resolution

Recommendation(s):

- Authorize the City Manager to apply for, accept, if awarded, and implement the Texas Parks and Wildlife Recreation Trails Grant.

MOTION: ☐

SECOND: ☐

VOTE:

☐ PRESENTED

☐ APPROVED

☐ DECLINED ACTION

☐ TABLED

☐ OTHER

RESOLUTION NO. 2010-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, AUTHORIZING THE SUBMISSION OF A TEXAS RECREATIONAL TRAILS FUND PROGRAM APPLICATION TO THE TEXAS PARKS AND WILDLIFE DEPARTMENT FOR THE EASTHAM-THOMASON PARK TRAILHEAD IMPROVEMENT PROJECT; AND AUTHORIZING THE CITY MANAGER TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE TEXAS RECREATIONAL TRAILS FUND PROGRAM.

WHEREAS The City desires to develop a viable community for all citizens, and Eastham-Thomason Park provides usable green space and walking trails for the citizens of Huntsville; and

WHEREAS It is necessary and in the best interest of the City to apply for funding under the 2010 Texas Recreational Trails Fund Program.

NOW, THEREFORE, be it resolved by the City Council of the City of Huntsville, Texas, that:

SECTION 1: A grant application is hereby authorized to be filed on behalf of the City and be placed in competition for funding under the Texas Recreational Trails Fund Program.

SECTION 2: The application will be for no more than \$250,000 of grant funds to carry out the Eastham-Thomason Trailhead Improvement Project.

SECTION 3: The City shall contribute up to \$50,000 (20%) in the form of in-kind match for the purpose of labor, renovation and/or disposal of waste for completion of the project.

SECTION 4: The Mayor and City Council strongly support this application to address the community pride and recreation needs of the citizens of Huntsville.

SECTION 5: The City Council directs and designates the City Manager, Bill Baine, as the City's Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and the City's participation in the Texas Recreational Trails Fund Program.

PASSED AND APPROVED this 20th day of April, 2010.

THE CITY OF HUNTSVILLE

J. Turner, Mayor

ATTEST:

Lee Woodward, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney

City Council Meeting Agenda Item

Item Title:

Purchasing Solutions Alliance Membership

Date:

4/20/2010

Agenda Item No.:

69

Requested By:

Winston Duke

Dept./Div:

224

Dept. Approval:

WD

Issue/Item Description:

Requesting permission to become a member of the Purchasing Solutions Alliance Cooperative, PSA.

Background:

Purchasing Solutions Alliance was formed in 2008 under the approval of the Brazos Valley Council of Government's Board of Directors. Local Government Code allows local governments to participate in cooperative purchasing programs. Any purchases made under this cooperative agreement satisfies any state law requiring competitive bids for purchase of goods or services.

Facts to Consider:

- The City of Huntsville held a sealed bid for automotive parts; the contract was awarded to NAPA Auto Parts, in Huntsville TX in August of 2008.
- NAPA Auto Parts was awarded a contract with the PSA in December 2009;
- A comparative analysis of NAPA's quoted bid that was submitted in August of 2008 was done compared to the PSA pricing. The PSA pricing has a reduced pricing structure due to the quantity discount;
- A meeting was held with NAPA and PSA to ensure a seamless transition;
- Walker County recently joined the PSA and after discussing the issues with the Walker Co purchasing department there were no negative comments to report;
- PSA has a generator vendor on contract that may be useful to the City in the future;
- There are no costs or fees associated with membership.

Fiscal Impact/Funding Source(s):

Various Department Budgets \$79,000 NAPA Budget Year 2009 Sales to City of Huntsville

Attachment(s):

- Purchasing Solutions Alliance Interlocal Purchasing Agreement
- Membership List

Recommendation(s):

- Authorize the City Manager to execute the Interlocal Purchasing Agreement with Purchasing Solutions Alliance.

MOTION: ☐

SECOND: ☐

VOTE:

☐ **PRESENTED**

☐ **APPROVED**

☐ **DECLINED ACTION**

☐ **TABLED**

☐ **OTHER**

Purchasing Solutions Alliance

a purchasing cooperative for public agencies



INTERLOCAL PURCHASING AGREEMENT

THIS INTERLOCAL AGREEMENT ("ILA"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Brazos Valley Council of Governments, hereinafter referred to as "BVCOG," having its principal place of business at 3991 East 29th St., Bryan, Texas 77803, and City of Huntsville, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "Cooperative Member," having its principal place of business at 1212 Avenue M, Huntsville, TX 77340

WHEREAS, BVCOG is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, BVCOG is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, in reliance on such authority, BVCOG has instituted a cooperative purchasing program, hereinafter referred to as the "Purchasing Solutions Alliance" or "PSA," under which it contracts with eligible entities under the Act; and

WHEREAS, Cooperative Member has represented that it is an eligible entity under the Act, that its governing body has authorized this Agreement on _____ (Date), and that it desires to contract with BVCOG on the terms set forth below;

NOW, THEREFORE, BVCOG and the Cooperative Member do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The Cooperative Member represents and warrants to BVCOG that it is eligible to contract with BVCOG under the Act for the purposes recited herein because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state, or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and it possesses adequate legal authority to enter into this Agreement.

ARTICLE 2: APPLICABLE LAWS

BVCOG and the Cooperative Member agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Agreement.

ARTICLE 3: WHOLE AGREEMENT

This Agreement and any attachments, as provided herein, constitute the complete agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 4: PERFORMANCE PERIOD

This Agreement shall be effective when signed by the last party whose signing makes the Agreement fully executed and will remain in full force and effect for one (1) year. This Agreement shall automatically renew for successive one-year terms unless sooner terminated in accordance with the provisions of this Agreement. The conditions set forth below shall apply to the initial term and all renewals. Notwithstanding this provision, any party may modify or terminate this Agreement as provided in Article(s) 7 or 8.

ARTICLE 5: SCOPE OF SERVICES

The Cooperative Member appoints BVCOG its true and lawful purchasing agent for the purchase of certain products and services through the **Purchasing Solutions Alliance** cooperative purchasing program. All purchases hereunder shall be in accordance with Texas statutes and procedures governing competitive bids and competitive proposals and in accordance with specifications and contract terms established by BVCOG, and at the prices available and published by BVCOG. Ownership (title) to products purchased through contracts awarded pursuant to the PSA program shall transfer directly from the contractor to the Cooperative Member. Nothing in this Agreement shall prevent the Cooperative Member from purchasing and/or accepting and awarding bids, proposals and contracts subject to this Agreement on its own behalf.

ARTICLE 6: PAYMENTS

Upon delivery of goods or services purchased and presentation of a properly documented invoice, the Cooperative Member shall promptly, and in any case within thirty (30) days, pay the vendor and/or contractor the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall BVCOG have any financial liability to the Cooperative Member for any goods or services Cooperative Member procures through its PSA program.

ARTICLE 7: CHANGES AND AMENDMENTS

This Agreement may be amended only by a written amendment executed by both parties, except that any alternations, additions, or deletions to the terms of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation. BVCOG reserves the right to make changes in the scope of products and services offered through the PSA cooperative purchasing program to be performed hereunder.

ARTICLE 8: TERMINATION PROCEDURES

BVCOG or the Cooperative Member may cancel this Agreement at any time upon thirty (30) days written notice by certified mail to the other party to this Agreement. The obligations of the Cooperative Member, including obligations to pay any vendor or contractor for all goods and/or services purchased under this Agreement, shall survive such cancellation, as well as any other obligation incurred under this Agreement, until performed or discharged by the Cooperative Member.

ARTICLE 9: SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 10: FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds.

ARTICLE 11: CONSENT TO SUIT

Nothing in this Agreement will be construed as a waiver or relinquishment by either party of its right to claim such exemptions, privileges and immunities as may be provided by law.

ARTICLE 12: MISCELLANEOUS

a. This Agreement has been made under and shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under, or in connection with, this Agreement shall lie exclusively in Brazos County, Texas.

b. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective entities.

c. This Agreement and the rights and obligations contained herein may not be assigned by either party without the prior written approval of the other party to this Agreement.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:

**Brazos Valley Council of Governments
Purchasing Solutions Alliance
3991 East 29th St.
Bryan, Texas 77802**

Name of Cooperative Member

BVCOG Executive Director or Designee

Mailing Address

Signature of Executive Director or Designee

City, State, ZIP Code

Date: _____

Name & Title of Chief Elected Official or Designee

Roger D. Dempsey
Attest: PSA Program Manager

By: _____
Signature of Chief Elected Official or Designee

Attest: _____
Signature of PSA Program Manager

Date: _____

Date: _____

Purchasing Solutions Alliance



a purchasing cooperative for public agencies
PSA MEMBER LISTING – FEBRUARY 17, 2010

Municipal Government	K-12 cont.
City of Allen City of Brenham City of Brookshire City of Bryan City of Cedar Park City of College Station City of Jewett City of Joshua City of Lancaster City of League City City of Madisonville City of Marquez	Randolph Field I.S.D. Santa Fe I.S.D. Schertz-Cibolo-Universal City I.S.D. Springtown I.S.D. Stafford Municipal School District Somerville I.S.D. Waco I.S.D. Waller I.S.D. Weatherford I.S.D.
County Government	Higher Education
Austin County Brazoria County Brazos County Burleson County Cameron County Grimes County Leon County Madison County Spokane County, WA Walker County Washington County	Blinn College College of the Mainland Lone Star College System Sam Houston State University San Jacinto College Texas A&M University Texas AgriLife Extension Service Texas AgriLife Research Texas Engineering Experiment Station University of Texas at Austin University of Texas at San Antonio Weatherford College
K-12	Non-Profit
Bellville I.S.D. Bremond I.S.D. Bridgeport I.S.D. Bryan I.S.D. Buffalo I.S.D. Caldwell I.S.D. Calvert I.S.D. College Station I.S.D. Coppell I.S.D. Deer Park I.S.D. Ector County I.S.D. Friendswood I.S.D. Goose Creek I.S.D. Grapevine-Colleyville I.S.D. Harlandale I.S.D. Harris County Department of Education Hearne I.S.D. Jourdanon I.S.D. Killeen I.S.D. Klein I.S.D. Marion I.S.D. Mumford I.S.D. Navarro I.S.D. North Kansas City School District North Zulch I.S.D. Pasadena I.S.D. Salem Keizer I.S.D., Salem Or.	Arts Council of Brazos Valley Brazos Valley Affordable Housing Corporation Brazos Valley Community Action Agency Brazos Valley Council on Alcohol & Substance Abuse Cosmos Foundation (Harmony Schools) EWEB Employees Federal Credit Union Good Samaritan Community Services Haven for Hope of Bexar County Holy Cross Lutheran School Robertson County Emergency Medical Services Robertson County Emergency Services District Spindletop MHMR Services The Fort Worth Public Library Foundation The Prenatal Clinic Tri-County MHMR Services United Way of the Brazos Valley Unity Partners DBA Project Unity
	Political Subdivisions & Other Governmental Units
	Alamo Area Council of Governments Bexar County Hospital District Brazos Valley Council of Governments Capitol Area Council of Governments Central Texas Council of Governments Heart of Texas Council of Governments Jewett Economic Development Corporation Panhandle Regional Planning Commission Temple Housing Authority Texoma Council of Governments Waller County Appraisal District

Membership with PSA is free and open to all local governments, nonprofits, and other political subdivisions. There are no membership fees to participate and no minimum spending requirements. Membership requires the governing body to approve the PSA Interlocal Purchasing Agreement.